

209-1

UNITED STATES OF AMERICA  
DEPARTMENT OF COMMERCE

In the Matter of

Col. Michael J. Hoover

Case No. 96-02E

ORDER

The Office of Antiboycott Compliance, Bureau of Export Administration, U.S. Department of Commerce ("Department"), having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 and Supp. 1996))<sup>1</sup> (the "Act"), and the Export Administration Regulations (15 C.F.R. Parts 768-799 (1995), as amended (61 Fed. Reg. 12714 (March 25, 1996)))<sup>2</sup> (the "Regulations"), against Col. Michael J. Hoover

<sup>1</sup>/ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996) and August 14, 1996 (61 Fed. Reg. 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1996)).

<sup>2</sup>/ The relevant events occurred in 1991 and 1992. The governing Regulations are found in the 1991 and 1992 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1991 and 1992)). Those Regulations are referred to hereinafter as the former Regulations. Since that time the Regulations have been reorganized and restructured; the restructured regulations are to

("Hoover"), an individual, resident in the State of California, based on the allegations set forth in the Proposed Charging Letter, dated February 25, 1997 attached hereto and incorporated herein by this reference;

The Department and Hoover, having entered into a Settlement Agreement, incorporated herein by this reference, whereby Hoover has agreed to settle this matter by the imposition of a civil penalty in the amount of \$20,000 by the Department; and

The Assistant Secretary for Export Enforcement having approved the terms of the Settlement Agreement;

IT IS THEREFORE ORDERED THAT,

FIRST, a civil penalty in the amount of \$20,000 is assessed against Hoover;

SECOND, payment of the \$20,000 civil penalty will be suspended and waived as of the entering of this Order;

---

be codified at 15 C.F.R. Parts 730-774.

609-3

- 3 -

THIRD, the Proposed Charging Letter, the Settlement Agreement and this Order shall be made available to the public and a copy of this Order shall be served upon Hoover.

This Order is effective immediately.

John Després  
Assistant Secretary  
for Export Enforcement

Entered this 25 day of FEBRUARY, 1997.

609-4

## UNITED STATES OF AMERICA

## DEPARTMENT OF COMMERCE

In the Matter of

Case No. 96-02B

Col. Michael J. Hoover

SETTLEMENT AGREEMENT

This agreement is made by and between Col. Michael J. Hoover ("Col. Hoover") and the United States Department of Commerce, pursuant to Section 766.18 of the Export Administration Regulations (15 C.F.R. Parts 768-799 (1995), as amended (61 Fed. Reg. 12714 (March 25, 1996)))<sup>1</sup> (the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1996))<sup>2</sup> (the "Act").

<sup>1</sup> The relevant events occurred in 1991. The governing Regulations are found in the 1991 Code of Federal Regulations (15 C.F.R. Parts 768-799 (1991)). Those Regulations are referred to hereinafter as the former Regulations. Since that time, the Regulations have been restructured and reorganized; the restructured Regulations are to be codified at 15 C.F.R. Parts 730-774.

<sup>2</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996 (61 Fed. Reg. 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§1701-1706 (1991 & Supp. 1996)).

609-5

WHEREAS, the Office of Antiboycott Compliance, Bureau of Export Administration, U.S. Department of Commerce ("Department"), has notified Col. Hoover of its intention to initiate an administrative proceeding against him pursuant to Section 11(c) of the Export Administration Act of 1979 (the "Act"), by issuing the Proposed Charging Letter, dated February 25, 1997, a copy of which is attached hereto and incorporated herein by this reference, alleging that Col. Hoover violated Part 769 of the former Regulations, promulgated to implement the Act;

WHEREAS, Col Hoover has reviewed the Proposed Charging Letter and is aware of the allegations against him and the administrative sanctions which could be imposed against him, if the allegations were found to be true; Col. Hoover fully understands the terms of this Settlement Agreement, and enters into this Settlement Agreement voluntarily and with full knowledge of his rights; and Col. Hoover states that no promises or representations have been made to him other than the agreements and considerations herein expressed;

WHEREAS, Col. Hoover wishes to settle and dispose of the allegations made in the Proposed Charging Letter by entering into this Settlement Agreement; and

609-6

WHEREAS, Col. Hoover agrees to be bound by the appropriate Order ("Order") when entered; however, if such Order is inconsistent with this Settlement Agreement in any material way, this agreement is null and void;

NOW THEREFORE, Col. Hoover and the Department agree as follows:

1. Under the Act and the Regulations, the Department has jurisdiction over Col. Hoover with respect to the matters alleged in the Proposed Charging Letter.
2. The Department will impose a civil penalty on Col. Hoover in the amount of \$ 20,000. The Department will suspend and waive payment of the civil penalty upon entering the Order.
3. Subject to the approval of this Settlement Agreement, pursuant to paragraph 8 hereof, Col. Hoover waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement Agreement or the Order, when entered) including, without limitation, any right to:

609-7

- a. an administrative hearing regarding the allegations in the Proposed Charging Letter; or
  - b. seek judicial review or otherwise contest the validity of this Settlement Agreement or the Order, when entered.
4. The Department, upon entry of the Order, will not subsequently initiate any further administrative or judicial proceedings, or make any referral to any agency of the United States government, any agency of any state of the United States, any bar of any federal or state court, or any federal or state legal licensing authority for possible enforcement, or collection, or other action of any kind against Col. Hoover, with respect to any alleged violation of Section 8 of the Act or Part 769 of the former Regulations arising out of the transactions set forth in the Proposed Charging Letter or any other transaction that was disclosed to or reviewed by the Department in the course of its investigation.
5. Col. Hoover understands that the Department will disclose publicly the Proposed Charging Letter, this Settlement Agreement and the Order, when entered, and

609-8

the Department understands that Col. Hoover retains his right to respond publicly.

6. This Settlement Agreement is for settlement purposes only, and does not constitute an admission by Col. Hoover that he has violated the Regulations or an admission of the truth of any allegation contained in the Proposed Charging Letter or in this Settlement Agreement. Therefore, if this Settlement Agreement is not accepted and the Order not entered by the Assistant Secretary for Export Enforcement, the Department may not use this Settlement Agreement against Col. Hoover in any administrative or judicial proceeding.
7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the Order, when entered, nor shall this Settlement Agreement serve to bind, constrain or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances herein addressed.



609-9

8. This Settlement Agreement will become binding on the parties only when approved by the Assistant Secretary for Export Enforcement by entering the Order.

For:

Col. Michael J. Hoover

Deborah A. Bell

Signed this 25<sup>th</sup> day of February, 1997

U.S. Department of Commerce

William V. Skidmore  
Director  
Office of Antiboycott Compliance

Signed this 25<sup>th</sup> day of February, 1997.



609-10  
UNITED STATES DEPARTMENT OF COMMERCE  
Bureau of Export Administration  
Washington, D.C. 20230

PROPOSED CHARGING LETTER

February 25, 1997

Col. Michael J. Hoover  
HQAFMC LO/JAB  
2240 B Street Room C1  
Wright-Patterson AFB Ohio 45433-7112

Case No. 96-02E

Dear Col. Hoover:

The Office of Antiboycott Compliance, Bureau of Export Administration, United States Department of Commerce (hereinafter the "Department"), hereby charges that you have committed two violations of Section 769.2(b) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 768-799 (1996), as amended (61 Fed. Reg. 12714, March 25, 1996)) (hereinafter the "Regulations"),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1996)) (hereinafter the "Act"),<sup>2</sup> as set forth below.

At all times relevant to the violations of Part 769 of the former Regulations alleged herein, you were a United States resident or national and, therefore, a United States person as defined in Section 769.1(b) of the former Regulations.

---

<sup>1</sup> The relevant events occurred in 1991. The governing Regulations are found in the 1991 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1991)). Those Regulations are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations are to be codified at 15 C.F.R. Parts 730-774.

<sup>2</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996 (61 Fed. Reg. 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1996)).



609-11

With respect to the violations of Part 769 of the former Regulations alleged herein, you engaged in activities that involved the sale, purchase, or transfer of goods or services (including information) between the United States and the Kingdom of Saudi Arabia, activities in the interstate or foreign commerce of the United States as defined in Section 769.1(d) of the former Regulations.

You engaged in the prohibited activities described in Charges 1 and 2 below with intent to comply with, further, or support a restrictive trade practice or boycott fostered or imposed by a foreign country against a country friendly to the United States which is not itself the object of any form of boycott pursuant to United States law or regulation (hereinafter "unsanctioned foreign boycott"), as defined in Section 769.1(e) of the former Regulations.

Facts constituting violations:

Charges 1-2

On or about November 19, 1991, you, Michael J. Hoover, Lt. Colonel, United States Air Force (hereinafter the "USAF"), Chief, Air Force Peace Shield Litigation Team, met with Jane Hadden, an employee of the Civil Division, United States Department of Justice (hereinafter "Ms. Hadden" or "OLS/DOJ") and two employees of CACI Inc. -- Commercial, an OLS/DOJ contractor providing litigation support to the Department of Justice in connection with its representation of the USAF in contract litigation (hereinafter "CACI") to discuss and plan for a microfilming project in Saudi Arabia.

In the course of the meeting, you and another USAF representative provided information about travel to Saudi Arabia and about the criteria to be used for selecting the team of United States persons who would go to Saudi Arabia. In describing who could not go to Saudi Arabia, the USAF representatives instructed OLS/DOJ and the CACI employees that Jewish people were not allowed to go to Saudi Arabia and that even people with surnames that sounded like Jewish surnames could not go to Saudi Arabia.

As a direct result of the instructions provided by the USAF representatives at the meeting, CACI prepared and OLS/DOJ reviewed and approved an "Operations Plan for Desert Shoot" which stated:

I. SELECTION CRITERIA

\* \* \*

E. No Jews or Jewish surnamed personnel will be sent as part of the Document Acquisition Team because of cultural differences between Moslems and Jews in the region.

As a result of the foregoing restriction, one or more U.S. persons who were Jewish or were believed to be Jewish were eliminated from consideration for the team to be sent to Saudi Arabia.

By giving or agreeing with the instructions given to OLS/DOJ and CACI that Jewish people or people with so-called Jewish surnames could not go to Saudi Arabia as part of the Desert Shoot team, you required or knowingly agreed to require two other persons to discriminate against individuals who are U.S. persons on the basis of religion or national origin, an activity prohibited by Section 769.2(b) of the former Regulations and not excepted. By so doing you committed two violations of Section 769.2(b) of the former Regulations.

Accordingly, an administrative proceeding is instituted against you pursuant to Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions, including any or all of the following:

- a. Denial of export privileges (see Section 764.3(a)(2) and Sections 788A.3(a)(1) and (2) of the Regulations);
- b. Exclusion from practice (see Section 764.3(a)(3) and Section 788A.3(a)(3) of the Regulations); and/or
- c. The maximum civil penalty of \$10,000 per violation (see Section 764.3(a)(1) and Section 788A.3(a)(4) of the Regulations).

If you fail to answer the charges contained in this letter within 30 days after service, as provided in Section 766.6 of the Regulations, your failure will be treated as a default under Section 766.7.

You are further notified that you are entitled to an agency hearing on the record as provided by Section 766.6 of the Regulations if a written demand for one is filed with its answer. You are also entitled to be represented by counsel and, under Section 766.18 of the Regulations, to seek a consent settlement.

Your answer should be filed with the Administrative Law Judge/ Antiboycott Compliance, U.S. Department of Commerce, Room H-6839,

609-13

14th Street & Constitution Avenue, N.W., Washington, D.C. 20230.  
In addition, a copy of your answer should be served on the  
Department at the address set out in Section 766.5 of the Regula-  
tions, adding "ATTENTION: Jeffrey E.M. Joyner, Esq." below the  
address. Please note that the room number for the Department is  
H-3839. Mr. Joyner can be contacted by telephone at (202) 482-  
5311.

Sincerely,

William V. Skidmore  
Director  
Office of Antiboycott Compliance